

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>In re:</b>  <b>W.R. GRACE &amp; CO., <i>et al.</i>,</b>  <b>Debtors.</b>	<b>§</b> <b>§</b> <b>§</b> <b>§</b> <b>§</b> <b>§</b>	<b>Chapter 11</b>  <b>Jointly Administered</b> <b>Case No. 01-01139 (JKF)</b>
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**FEE AUDITOR'S FINAL REPORT REGARDING QUARTERLY INTERIM  
FEE APPLICATION OF THE LAW OFFICES OF JANET S. BAER, P.C., FOR THE  
INTERIM PERIOD FROM OCTOBER 1, 2009, THROUGH DECEMBER 31, 2009**

This is the initial report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Quarterly Interim Fee Application of The Law Offices of Janet S. Baer, P.C., for the Interim Period from October 1, 2009 through December 31, 2009 (the "Application").

**BACKGROUND**

1. The Law Offices of Janet S. Baer, P.C. ("Baer P.C."), was retained as co-counsel to the Debtors and Debtors-in-Possession. In the Application, Baer P.C. seeks approval of fees totaling \$459,382.50 and expenses totaling \$8,924.81 for its services from October 1, 2009 through December 31, 2009 (the "Thirty-Fifth Interim Period" or the "Application Period").

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2010, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C.

§ 330, Issued January 30, 1996 (the "Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We served an initial report on Baer P.C. based on our review, and we received a response from Baer P.C., portions of which response are quoted herein.

### DISCUSSION

3. We noted that in the October 2009 monthly fee application, fees of \$191,795.00 were requested. However, the fee detail supported fees of only \$191,720.00, for a difference of \$75.00. We asked Baer P.C. about this discrepancy, and Baer P.C. responded: "You are correct and there should be a fee reduction of \$75.00 for this matter." We appreciate Baer P.C.'s response and recommend a reduction of \$75.00 in fees to correct the error.

4. We noted the following time entries in which there is a discrepancy between the total time billed and the time recorded in parentheses:

RJH	12/14/09	Exchange correspondence with client and other parties re North Carolina tax stipulation and revise same (.70); analyze employee claims issues and exchange correspondence with various parties re same (1.80); attend to issues re Wright and other claims (.60).	3.30	\$475	\$1,567.50
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*(The time recorded within the time entry totals 3.10 hours, for \$1,472.50 in fees. Thus it appears that there is an overcharge of \$95.00.)*

RJH	12/18/09	Legal analysis and draft motion re employee claims issues (6.10); prepare for and participate in telephone conference with J. Baer re same (1.20); telephone conference with J. Hughes re summary judgment motion (.30); analyze client materials sent 12/18 re same (.50); confer with F. Zaremby, R. Finke and J. Baer re employee claims matter (.40).	8.80	\$475	\$4,180.00
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*(The time recorded within the time entry totals 8.50 hours, for \$4,037.50 in fees. Thus, it appears that there is an overcharge of \$142.50.)*

RJH	12/11/09	Review and analyze revised Latham draft of letter of credit facility and related documentation and exchange correspondence with client re same (1.10); telephone conference with client re same (1.20).	3.30	\$475	\$1,567.50
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*(The time recorded within the time entry totals 2.30 hours, for \$1,092.50 in fees. Thus, it appears that there is an overcharge of \$475.00.)*

JSB	12/15/09	Review plan amendments and related matters and respond re same (.40); prepare correspondence re closing arguments and related matters (.60).	.70	\$625	\$437.50
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*(The time recorded within the time entry totals 1.00 hour, for \$625.00 in fees. Thus, it appears that there is an undercharge of \$187.50.)*

JSB	12/28/09	Review draft stipulation re CAN and correspondence re Libby (.30); confer with T. Freedman re Fresenius Tax issues and One Beacon objection (.30); review documents re same (.80); further confer with T. Freedman and review correspondence on Fresenius issues (.40).	1.60	\$625	\$1,000.00
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*(The time recorded within the time entry totals 1.80 hours, for \$1,125.00 in fees. Thus, it appears that there is an undercharge of \$125.00.)*

JSB	12/04/09	Confer re issues on Canadian Factum for hearing (.50); confer with D. Boll and C2 Legal re the employee Claims Concordance Data Base (.30); confer with T. Freedman re Plan Amendment and affect (.20); prepare correspondence re same (.20); review revised Reply re Wachovia and prepare comments re same (.30); prepare correspondence Concordance Data bases (.30); final review of Canadian Factum and revisions to same (.20); final review of Wachovia Reply (.30); review and respond re issues on Concordance data for employee claims objections (.40); review correspondence re Canadian issues (.20); confer with J. Donley re Alltech inquiry and prepare correspondence re same (.30); review General Insurance Bar Date materials and prepare memo re same (1.20); review correspondence from C. Landeau re Anderson appeal and prepare response re same (.30); review information re Canadian voting issues and confer with T. Freedman re same (.30); review correspondence on Hammar lease claim (.20); review new Canadian letter re potential issues and prepare revisions to response re same (.40).	5.90	\$625	\$3,687.50
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*(The time recorded within the time entry totals 5.60 hours, for \$3,500.00 in fees. Thus, it appears that there is an overcharge of \$187.50.)*

Thus, we asked Baer P.C. whether it agreed that fee adjustments were warranted for these time entries, and Baer P.C. responded:

I agree with you on four of the six entries, namely the RJH entries for 12/14/09 (overcharge of \$95.00); 12/18/09 (overcharge of \$142.50); 12/11/09 (overcharge of \$475.00) and the JSB entry for 12/28/09 (undercharge of \$125.00) for a total fee reduction of \$587.50.

With respect to the JSB entry for 12/15/09, the amount billed is correct. The second parenthetical was a typo. It should have been .30 hours, not .60 hours.

With respect to the JSB entry for 12/04/09, the time billed is correct. I went back to the raw time and discovered there is a missing description for .30 hours. The missing description is as follows: "Review revised Canadian Factum and prepare comments

re same (.30)." With that added entry, the 5.90 hours billed is correct.

We appreciate Baer P.C.'s response and recommend a reduction of \$587.50 in fees.

### **CONCLUSION**

5. Thus, we recommend approval of \$459,170.00 in fees (\$459,832.50 minus \$662.50) and \$8,924.81 in expenses for Baer P.C.'s services for the Thirty-Fifth Interim Period.

Respectfully submitted,

**WARREN H. SMITH & ASSOCIATES, P.C.**

By: 

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**FEE AUDITOR**

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 4<sup>th</sup> day of May, 2010.



Warren H. Smith

## **SERVICE LIST**

### **Notice Parties**

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